

term for want of the proper witnesses, and is still pending, and that no decision has been made by the court in said case.

Your committee, from these facts, believe that the bill for his relief commends itself to the favorable consideration of the Senate, without amendment, and recommend its passage.

A bill authorizing and requiring the Commissioner of the General Land Office to issue a head-right certificate to A. S. Cunningham; read second time, and ordered to be engrossed.

A bill extending the time for taking out unconditional head-rights, together with the report of the committee on Public Lands offering a substitute therefor, was read; report adopted, and bill ordered to be engrossed.

On motion of Mr. Pease, a committee of five were appointed to revise the rules of the Senate.

Messrs. Pease, Phillips, Van Derlip, Wallace and Grimes were appointed said committee.

A bill for the relief of the citizens of Jasper county, together with the report of the committee on Public Lands offering two additional sections as amendments, was read; report adopted and ordered to be engrossed.

The report of the committee on Private Land Claims, on the petition of Daniel Martindale, was read and adopted.

A bill providing payment for the forage, subsistence, &c. of the company of mounted volunteers mustered into the service of this State, on the 10th day of June, 1849, by Col. H. L. Kinney; read, and, on motion of Mr. Portis, made the special order of the day for to-morrow.

Mr. Parker introduced a bill to establish the Ninth Judicial District; read first time.

Mr. Phillips offered the following resolution:

Resolved, That, in accordance with the recommendation of the Governor to observe Thursday as a day of thanksgiving throughout the State, the Senate stand adjourned until Friday; adopted.

FRIDAY, 9 o'clock, A. M., December 7, 1849.

The Senate was called to order by the President. Senators present: Messrs. Cooke, Davis, Gage, Grimes, Hart, Latimer, McRae, Moffett, Parker, Pease, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip, Waid and Wallace.

Prayer by the Chaplain. The journals of Wednesday were read and adopted.

Mr. McRae presented the petition of sundry citizens of Jasper county, praying that Bear Creek be declared a navigable stream; which was read, and, on motion of Mr. McRae, referred to the committee on Internal Improvements.

Mr. Latimer, chairman of the committee on Public Lands, to whom was referred a joint resolution for the relief of Hugh McClure, reported the same back to the Senate and recommended its passage.

Mr. Robertson, chairman of the committee on Private Land Claims, made the following report:

COMMITTEE ROOM, Dec. 7, 1849.

To the HON. JOHN A. GREER,
President of the Senate:

The committee on Private Land Claims, to whom was referred the petition of Robert W. Latimer, with accompanying documents, have had the same under consideration, and have instructed me to report:

That the proof, that was adduced before your committee, shows that the said Latimer is justly entitled to his head-right by virtue of his emigration to the country, with his family, in December, 1839, and residence in it and performance of all the duties of a citizen up to the present time. The board of Land Commissioners of Shelby county issued an unconditional certificate to him for his land, on the first day of May, 1848, which was a short time after the passage of the law prohibiting them from a further issuance of such certificates.

From the facts above referred to, your committee believe that the relief asked for by the petitioner is reasonable and just; they, therefore, have instructed me to report a bill for his relief and recommend its passage by the Senate. All of which is respectfully submitted.

A bill to authorize and require the Commissioner of the General Land Office to issue a patent to Robert W. Latimer for six hundred and forty acres of land; read first time.

Mr. Grimes introduced a joint resolution, requiring the Commissioner of the General Land Office to issue certificates to persons who have located on a grant of eleven leagues of land made to John Cameron, agent of Jose Maria de la Garza for the quantity of land they have been required to relinquish; read first time.

Mr. Cooke offered the following resolution:

Resolved, That the Door-Keeper be required to get a sufficient number of "long pine poles" to prop up the Senate-chamber so as to prevent it from falling down until the adjournment of the present session of the Legislature.

On motion of Mr. Gage, referred to the committee on Finance.

Mr. Parker offered the following resolution:

Resolved, That the committee on the Judiciary be instructed to report a bill, organizing the several Judicial Districts, making such alterations in the districts as they are now organized as they may find most convenient to the people of the several districts; rejected.

Mr. Phillips introduced a bill to amend the 24th section of an act regulating attachments, approved March 11th, 1848, and to add to said act another section to be section 31; read first time.

Also, a bill to amend the 6th section of an act regulating sequestrations, approved March 15th, 1848; read first time.

Mr. Van Derlip introduced a bill to incorporate the Bexar Manufacturing Company; read first time.

ORDERS OF THE DAY.

A bill for the relief of Jonathan Bird; read and ordered to be engrossed.

A bill providing payment for the forage, subsistence, &c. of the company of mounted volunteers mustered into the service of this State, on the 10th June, 1849, by Col. H. L. Kinney; read and ordered to be engrossed.

A message was received from the House of Representatives, through their Chief Clerk, informing the Senate that the House had passed the following bills and joint resolutions, to wit:

A bill to amend the 3d, 4th, 6th and 7th sections of an act authorizing and requiring the county courts to regulate roads, appoint overseers, &c., approved March 15, 1848;

Joint resolution appropriating four thousand dollars for the compensation of the assessors of direct taxes for taking the enumeration of the inhabitants of the State for the year 1848, and joint resolution providing for the removal of certain Spanish documents from Nacogdoches county to the State Department; which were severally read first time.

A bill to apportion the Senators and Representatives of the Legislature among the several counties of this State; read.

Mr. Wallace offered a substitute for the bill ; which was read, and, on motion of Mr. Wallace, the bill and substitute were laid upon the table and made the order of the day for Monday, the 10th inst.

A bill to fix the whole number of Senators at twenty-one and apportion them among the several districts herein established, according to the number of qualified electors, and to apportion fifty-two, the whole number of Representatives, among the several counties, according to the number of free white population in each ; read.

Mr. Wallace offered a substitute for all after the 3d section of the bill ; which was read, and, on motion of Mr. Wallace, laid on the table, together with the bill, and made the special order of the day for Monday next, the 10th inst.

A bill establishing the Ninth Judicial District ; read second time, and, on motion of Mr. Parker, referred to the Judiciary committee.

A bill to incorporate the Marshall Cemetery Company ; read third time and passed by the following vote :

Yeas : Messrs. Cooke, Davis, Gage, Grimes, Hart, Kinney, Latimer, McRae, Moffett, Parker, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip, Ward and Wallace—18.

Nays : Mr. Pease—1.

A bill to provide for the removal of the munitions of war, belonging to the State of Texas, to the city of Austin ; read second time, and, on motion of Mr. Latimer, referred to the committee on Military Affairs.

A bill for the relief of C. C. Taylor ; read second time, and, on motion of Mr. Parker, referred to the committee on Claims and Accounts.

Joint resolution for the relief of Hugh McClure ; read and passed to the third reading.

A message was received from the Governor, transmitting his objections to the following joint resolution :

JOINT RESOLUTION,

Relative to the removal of certain tribes of Indians beyond the limits of the State of Texas.

Whereas, Various tribes of Indians, belonging to, and under the control of the United States of America, have heretofore intruded, and still continue to intrude, upon the territory belonging to this State, contrary to, and in violation of the stipu-

lations of a treaty concluded between the Republic of the United States and Mexico, on the 5th day of April, in the year 1831, and acknowledged and recognized, on the 3d day of December, in the year 1838, between the said Republic of the United States and the late Republic of Texas; and *whereas*, The aforesaid tribes of Indians frustrate the prosperity of this sovereign State, defeat the growth of our frontier settlements, disturb the happiness of our good citizens and retard the progress of social improvement, therefore,

Be it resolved by the Legislature of the State of Texas, That his Excellency the Governor of this State be, and he is hereby required, to demand of the President of the United States of America the removal of Indians, as soon as practicable, beyond the boundary of the territory belonging to this State; and, also, the prohibition and prevention of their incursions and encroachments hereafter within the limits of said territory; and that a copy of this preamble and resolution be forwarded to each of our Senators and Representatives in Congress, and that they be instructed and requested to procure all necessary action on the part of the General Government in order to obtain the object herein desired.

C. G. KEENAN,

Speaker of the House of Representatives.

JOHN A. GREER,

President of the Senate.

EXECUTIVE OFFICE, December 4th, 1849.

Gentlemen of the Senate:

A joint resolution, relative to the removal of certain tribes of Indians beyond the limits of the State of Texas, which originated in your Honorable body, has been presented to me for approval.

At the same that I highly approve the object of that resolution, and am, to the utmost extent, disposed to co-operate with the Legislature in the attainment of the end contemplated by it, I yet feel constrained, under my view of the matter, to withhold my assent from it in its present shape.

If the proposition were a true one (which I am, however, inclined to doubt) that the stipulation in the treaty between the United States and Mexico of the 5th April, 1831 is yet a subsisting one, still I cannot construe its provisions so as to impose on the United States Government the obligation to act, in reference to the Indians in the manner indicated by this resolution.

That I am correct in this construction, is clearly proved by the correspondence, referred to in the resolution, between the

Secretary of State of the United States and our minister, dated 3d December, 1838. I transmit herewith copies of the reply of the Honorable Secretary of State denying the obligation of his Government to interfere in any case, except where acts of hostility or plunder have been committed.

The right, however, on the part of the State to insist on the removal of these as well as all other Indians beyond her limits exists, it is believed, independent of any such stipulation, and should, therefore, in any resolution having this for its object, be placed upon its true and proper ground.

The General Government having assumed, by laws and treaties, the regulation and control of all the Indian tribes within her limits, it, in consequence, became its duty so to exercise that power as to promote peace and prevent difficulties and collisions between them and the States. This can never be done so long as the Indians are permitted to remain within the limits of the States. Whereas, in this case, their incorporation into the State is impossible; the greater will necessarily absorb the less, and the only practical plan of securing peace to the States and preserving the Indians from extermination is to remove them with their own consent to a position entirely without the boundaries of the State jurisdictions, where they can assert and exercise their own political sovereignty and live and develop their true national character under their own laws and institutions.

The right of the State to the soil within her limits is perfect, except so far as it is impaired by the Indian title of occupancy, which title it is the right of the State, at any moment, to extinguish, when her wants or her policy demands it. This principle applies with equal pertinency to these Indians who were originally found here, as to those who have intruded since the occupation of the country by the Anglo American race.

The time having now arrived when the State of Texas, in discharging the obligations resting on her in favor of her creditors, is compelled to appropriate the country occupied by the Indians within her limits and extinguish their title thereto by conferring it on others; it is her right and becomes her duty to those in whose favor such disposition is made, to cause them to be removed beyond her limits.

The proper and legitimate mode to effect this is through the agency of the General Government which has assumed the guardianship and control of this people. Upon these grounds it is that our right to demand their removal should be based.

I have the honor to be,
Your Obedient Servant,
GEO. T. WOOD.

Anson Jones to John Forsyth.

Texian Legation, Washington, Nov. 26, 1838.

Sir,—Information has been recently received from Texas, that various tribes of Indians, who at different times have migrated from the United States, have for some time past been committing murders and other hostile aggressions upon the inhabitants of that country, and that a combination is now formed between most of these tribes and others originally residing within its borders for the purpose of commencing a general warfare. For this object, large numbers of Caddoes, Kickapoos, Coshattees, Cherokees, Tahwaccanies, and a few from several other tribes, are now collected upon the river Trinity, from which point they are preparing to assail the settlements of the whites. By information from other, though less authentic sources, there is reason to believe that this hostile combination extends to a portion of some of those tribes now residing upon the borders of the United States or on their way thither, and that so soon as the warwhoop is raised by those already assembled, they will receive large and powerful accessions to their numbers from those tribes.

To these acts of hostility they have been incited by none on the part of the government or people of Texas, but, it is believed, are instigated solely by their native and hereditary hatred to the whites, by their desire of plunder, and by the encouragement held out to them by the Mexican authorities and their emissaries, by whose inhuman policy they have been promised future possession of the country, on the condition of their exterminating the Texans, or expelling them from it.

The undersigned, Minister Plenipotentiary of the Republic of Texas, has the honor to submit this information to the Honorable the Secretary of State, and earnestly to request that suitable measures may immediately be taken by this government to interpose a force sufficient to prevent the threatened hostilities on the part of its Indians, to inflict exemplary punishment for those already committed, to cause the removal of the intruded savages beyond the known or disputed limits of Texas, and to insure their future peaceful and good behavior towards its government and people.

And inasmuch as the incursions and settlement of various tribes of warlike Indians from the United States within its borders, has been forcible and unauthorized by the present or former government of Texas, and in contravention of the established comity of nations, as well as of the stipulations of the thirty-third article of the treaty of the 5th April, 1831, between the United States and Mexico, (which treaty is now binding upon Texas so far as her

particular territory is concerned,) the undersigned, on the part of his government, most solemnly protests as well against the incursions and settlement of those Indians as for all reclamations which may arise for injuries that have been or shall be sustained by Texas in consequence thereof.

The undersigned, Minister Plenipotentiary of the Republic of Texas, embraces this occasion to tender to the Hon. Mr. Forsyth, Secretary of State of the United States, renewed assurances of his most distinguished consideration and regard.

ANSON JONES.

Hon. JOHN FORSYTH,
&c., &c., &c.

John Forsyth to Anson Jones.

Department of State,
Washington, 3d Dec., 1838.

Anson Jones, Esq.,

Minister Plenipotentiary of the Republic of Texas:

SIR, I have had the honor to receive your note of the 26th inst., stating that various tribes of Indians who had emigrated from the United States, are combining with others originally residing within the borders of Texas, for the purpose of committing aggressions upon the inhabitants of that country, and that there is reason to believe that the combination extends to Indian tribes now within the limits of the United States; and requesting the interposition of this Government in preventing the threatened hostilities on the part of the last mentioned tribes; the infliction of punishment for those already committed; the removal of the intruding savages beyond the limits of Texas, and the adoption of measures for their peaceful behavior in future.

A copy of your note has, by direction of the President, been transmitted to the Secretary of War, who, being charged with the superintendence of Indian affairs, will adopt such measures as may appear necessary for the fulfilment of the obligations of the United States, under the treaty referred to in your note.—With regard to questions arising from the past or future emigration of Indians from the United States into Texas, I cannot better acquaint you with the views entertained by this Government on that subject than by referring you to the enclosed copy of a communication addressed by this Department on the 22nd of October, 1835, to the diplomatic representative of Mexico near the United States.

I avail myself of this occasion to offer you renewed assurances of my great consideration.

JOHN FORSYTH.

From Mr. Forsyth to Mr. Castillo, Chargé d'Affaires from Mexico.

Department of State, }
Washington, 22d Oct., 1835. }

Señor Don J. M. Castillo, &c., &c., &c. :

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Castillo, Chargé d'Affaires of the United Mexican States, dated the 14th instant, relative to alleged encroachments of Creek Indians from the United States upon the Mexican territory.

A copy of Mr. Castillo's note having been referred to the Secretary of War, who is charged with the superintendence of Indian affairs, that officer has stated that no information has been received by the War Department showing that the Creek Indians from Alabama are moving into the Mexican possessions; that there has not been during this season any emigration of Creek Indians from Alabama, and that the War Department has on all proper occasions by direction of the President, discountenanced the project of these Indians from removing into the province of Texas.

From this it would appear that the political chief of Nacogdoches has been misinformed. But should it be otherwise, it may be doubtful whether under the 23rd article of the treaty the intervention of the United States could be claimed or offered unless the Indians manifested some hostile intent. If Indians going from the United States or elsewhere should migrate to the Mexican territories with peaceful intentions, it will be for the Mexican government alone to decide upon their admission or exclusion. Though the general terms used in the representation of the political chief of Nacogdoches, the president in expecting a more explicit statement shewing at what times and places, and under what circumstances the Indians are alledged to have entered the Mexican territory, he has preferred directing this explanation to be made without delay, in order that there may be no room for doubt as to his views on the subject.

The undersigned avails himself of the occasion to offer Mr. Castillo renewed assurances of his distinguished consideration.

JOHN FORSYTH.

On motion of Mr. Gage the message and joint resolution were referred to the committee on the Judiciary.

On motion of Mr. Van Derlip, the Senate adjourned.